



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,873	06/14/2001	Kulvir S. Bhogal	AUS920010390US1	8232

32329 7590 01/30/2009  
IBM CORPORATION  
INTELLECTUAL PROPERTY LAW  
11501 BURNET ROAD  
AUSTIN, TX 78758

EXAMINER
----------

ZEWDU, MELESS NMN

ART UNIT	PAPER NUMBER
----------	--------------

2617

MAIL DATE	DELIVERY MODE
-----------	---------------

01/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* KULVIR BHOGAL, NIZAM ISHMAEL,  
& JAVID JAMEOSSANAIE

---

Appeal 2009-0632  
Application 09/881,873  
Technology Center 2600

---

Mailed: January 30, 2009

---

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 25, 2008. A Docketing Notice was mailed and Appeal No. 2009-0632 was assigned on October 21, 2008. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 1-15 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008)(en banc). Thus, there is a question as to whether claims 1-15 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1-15 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

tdl

IBM CORPORATION  
INTELLECTUAL PROPERTY LAW  
11501 BURNET ROAD  
AUSTIN TX 78758